

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JOEL CARDENAS,

Petitioner,

v.

ACTING WARDEN, *et al.*,

Respondents.

Case No. 3:15-cv-00476-MMD-VPC

ORDER

This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254 by a Nevada state prisoner.

Petitioner has filed a motion to proceed *in forma pauperis*. (Dkt. no. 1). Based on the information regarding petitioner's financial status, the Court finds that the motion to proceed *in forma pauperis* should be granted. The petition will now be filed and served on respondents.

Petitioner has filed a motion for the appointment of counsel. (Dkt. no. 1-2). Pursuant to 18 U.S.C. § 3006A(2)(B), the district court has discretion to appoint counsel when it determines that the "interests of justice" require representation in a habeas corpus case. Petitioner has no constitutional right to appointed counsel in a federal habeas corpus proceeding. *Pennsylvania v. Finley*, 481 U.S. 551, 555 (1987); *Bonin v. Vasquez*, 999 F.2d 425, 428 (9th Cir. 1993). The decision to appoint counsel is within the Court's discretion. *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986), *cert. denied*, 481 U.S. 1023 (1987); *Bashor v. Risley*, 730 F.2d 1228, 1234 (9th Cir.), *cert. denied*, 469 U.S. 838 (1984). The petition on file in this action is sufficiently clear in presenting the issues that

1 petitioner wishes to bring. The issues in this case are not complex. Petitioner's motion for
2 the appointment of counsel is denied.

3 It is therefore ordered that the application to proceed *in forma pauperis* (dkt. no. 1)
4 is granted.

5 It is further ordered that the Clerk file and electronically serve the petition (dkt. no.
6 1-1) upon the respondents.

7 It is further ordered that the Clerk of Court separately file the motion for
8 appointment of counsel, which is attached to the application to proceed *in forma pauperis*.

9 It is further ordered that petitioner's motion for the appointment of counsel is
10 denied.

11 It is further ordered that respondents will have forty-five (45) days from entry of this
12 order within which to answer, or otherwise respond to, the petition. In their answer or
13 other response, respondents must address all claims presented in the petition.
14 Respondents must raise all potential affirmative defenses in the initial responsive
15 pleading, including lack of exhaustion and procedural default. Successive motions to
16 dismiss will not be entertained. If an answer is filed, respondents must comply with the
17 requirements of Rule 5 of the Rules Governing Proceedings in the United States District
18 Courts under 28 U.S.C. §2254. If an answer is filed, petitioner will have forty-five (45)
19 days from the date of service of the answer to file a reply.

20 It is further ordered that any state court record exhibits filed by respondents must
21 be filed with a separate index of exhibits identifying the exhibits by number or letter. The
22 hard copy of all state court record exhibits must be forwarded, for this case, to the staff
23 attorneys in the Reno Division of the Clerk of Court. The hard copy of all exhibits
24 submitted to the Court must be tabbed and must be bound along the top edge of the
25 pages.

26 It is further ordered that, henceforth, petitioner must serve upon the Attorney
27 General of the State of Nevada a copy of every pleading, motion, or other document he
28 submits for consideration by the Court. Petitioner must include with the original paper

1 submitted for filing a certificate stating the date that a true and correct copy of the
2 document was mailed to the Attorney General. The Court may disregard any paper that
3 does not include a certificate of service. After respondents appear in this action, petitioner
4 must make such service upon the particular Deputy Attorney General assigned to the
5 case.

6 DATED THIS 21st day of April 2016.

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9 MIRANDA M. DU
10 UNITED STATES DISTRICT JUDGE
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